

cability of any of the provisions of this chapter to any action of the agency shall not be subject to judicial review.

“(b) Any regulatory flexibility analysis prepared under sections 603 and 604 of this title and the compliance or noncompliance of the agency with the provisions of this chapter shall not be subject to judicial review. When an action for judicial review of a rule is instituted, any regulatory flexibility analysis for such rule shall constitute part of the whole record of agency action in connection with the review.

“(c) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise provided by law.”

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-121 effective on expiration of 90 days after Mar. 29, 1996, but inapplicable to interpretative rules for which a notice of proposed rule-making was published prior to Mar. 29, 1996, see section 245 of Pub. L. 104-121, set out as a note under section 601 of this title.

### § 612. Reports and intervention rights

(a) The Chief Counsel for Advocacy of the Small Business Administration shall monitor agency compliance with this chapter and shall report at least annually thereon to the President and to the Committees on the Judiciary and Small Business of the Senate and House of Representatives.

(b) The Chief Counsel for Advocacy of the Small Business Administration is authorized to appear as amicus curiae in any action brought in a court of the United States to review a rule. In any such action, the Chief Counsel is authorized to present his or her views with respect to compliance with this chapter, the adequacy of the rulemaking record with respect to small entities and the effect of the rule on small entities.

(c) A court of the United States shall grant the application of the Chief Counsel for Advocacy of the Small Business Administration to appear in any such action for the purposes described in subsection (b).

(Added Pub. L. 96-354, §3(a), Sept. 19, 1980, 94 Stat. 1170; amended Pub. L. 104-121, title II, §243(b), Mar. 29, 1996, 110 Stat. 866.)

#### AMENDMENTS

1996—Subsec. (a). Pub. L. 104-121, §243(b)(1), which directed substitution of “the Committees on the Judiciary and Small Business of the Senate and House of Representatives” for “the committees on the Judiciary of the Senate and the House of Representatives, the Select Committee on Small Business of the Senate, and the Committee on Small Business of the House of Representatives”, was executed by making the substitution for “the Committees on the Judiciary of the Senate and House of Representatives, the Select Committee on Small Business of the Senate, and the Committee on Small Business of the House of Representatives” to reflect the probable intent of Congress.

Subsec. (b). Pub. L. 104-121, §243(b)(2), substituted “his or her views with respect to compliance with this chapter, the adequacy of the rulemaking record with respect to small entities and the” for “his views with respect to the”.

#### CHANGE OF NAME

Committee on Small Business of Senate changed to Committee on Small Business and Entrepreneurship of Senate. See Senate Resolution No. 123, One Hundred Seventh Congress, June 29, 2001.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-121 effective on expiration of 90 days after Mar. 29, 1996, but inapplicable to interpretative rules for which a notice of proposed rule-making was published prior to Mar. 29, 1996, see section 245 of Pub. L. 104-121, set out as a note under section 601 of this title.

### CHAPTER 7—JUDICIAL REVIEW

Sec.	
701.	Application; definitions.
702.	Right of review.
703.	Form and venue of proceeding.
704.	Actions reviewable.
705.	Relief pending review.
706.	Scope of review.

#### SHORT TITLE

The provisions of sections 551 to 559 of this title and this chapter were originally enacted by act June 11, 1946, ch. 423, 60 Stat. 237, popularly known as the “Administrative Procedure Act”. That Act was repealed as part of the general revision of this title by Pub. L. 89-554 and its provisions incorporated into sections 551 to 559 of this title and this chapter.

### § 701. Application; definitions

(a) This chapter applies, according to the provisions thereof, except to the extent that—

- (1) statutes preclude judicial review; or
- (2) agency action is committed to agency discretion by law.

(b) For the purpose of this chapter—

(1) “agency” means each authority of the Government of the United States, whether or not it is within or subject to review by another agency, but does not include—

- (A) the Congress;
- (B) the courts of the United States;
- (C) the governments of the territories or possessions of the United States;
- (D) the government of the District of Columbia;

(E) agencies composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them;

(F) courts martial and military commissions;

(G) military authority exercised in the field in time of war or in occupied territory; or

(H) functions conferred by sections 1738, 1739, 1743, and 1744 of title 12; chapter 2 of title 41; subchapter II of chapter 471 of title 49; or sections 1884, 1891-1902, and former section 1641(b)(2), of title 50, appendix; and

(2) “person”, “rule”, “order”, “license”, “sanction”, “relief”, and “agency action” have the meanings given them by section 551 of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 392; Pub. L. 103-272, §5(a), July 5, 1994, 108 Stat. 1373.)

#### HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
(a) .....	5 U.S.C. 1009 (introductory clause).	June 11, 1946, ch. 324, §10 (introductory clause), 60 Stat. 243.